

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OTIS WILLIAMS, III,

Plaintiff,

v.

TIMOTHY CRAWFORD ET AL,

Defendant.

Case No. 14-13240

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

U.S. MAGISTRATE JUDGE
DAVID R. GRAND

**ORDER GRANTING DEFENDANT’S MOTION FOR JUDGMENT ON THE PLEADINGS
AND MOTION TO DISMISS [24], DENYING AS MOOT DEFENDANT’S MOTION TO
DISMISS [14]**

On August 21, 2014, Plaintiff filed a pro se complaint alleging negligence, gross negligence, willful misconduct and conspiring to fraudulently transfer assets. Defendant Johnson’s Motion for Judgment on the Pleadings and Motion to Dismiss [24] was filed on July 9, 2015 and Defendant Orlan’s Motion to Dismiss filed on April 30, 2015. Plaintiff has not responded to either motion. For the reasons stated below, Defendant Johnson’s Motion for Dismissal and Judgment on the Pleadings [24] is **GRANTED**, and Defendant Orlans’ Motion to Dismiss [14] is **DENIED AS MOOT**.

FACTUAL BACKGROUND

In 2012, the property located at 16400 North Park Drive in Southfield was defaulted on by owner Claudia Myree before her death in April 2012. In September 2012, JP Morgan Chase initiated foreclosure proceedings on the home and in May 2013 the sheriff's deed became operative and vested all interest in and title to the property to Federal Home Loan Mortgage Corporation. In June 2013, Federal Home Mortgage Corporation sent the occupants of the property a notice to vacate the property and Doshia Banks, an occupant, refused to vacate, claiming that she rented the property from Myree. After the home was foreclosed, Federal Home Loan Mortgage Corporation filed an action to quiet title, which was granted, and an action to recover possession of property, which resulted in a judgment of possession in favor of Federal Home Loan Mortgage Corporation. These judicial decisions are the basis for Williams' claims against Defendant Judge Johnson who presided over those matters in the 46th District Court.

ANALYSIS

Defendant Johnson moves to dismiss Plaintiff's claims pursuant to Federal Rule of Civil Procedure 12(h)(3). Fed. R. Civ. P. 12(h)(3) permits sua sponte dismissals of suits over which the District Courts do not have subject matter

jurisdiction over. *See Rauch v. Day and Night Mfg. Corp.*, 576 F.2d 697, 701 (6th Cir.1978).

Plaintiff's complaint raises various claims, including negligence, gross negligence, willful misconduct, and conspiring to fraudulently transfer assets. Plaintiff cites Oklahoma State law for these claims, so these claims all are framed as torts and arise under state law rather than federal law. The complaint states that the Court has subject matter jurisdiction under 28 U.S.C. § 1331. However, all of Plaintiff's claims arise under state law and do not involve a federal question. The complaint does not allege any claims that establish a basis for federal jurisdiction. Plaintiff has not responded to either Motion to Dismiss and has not addressed the various deficiencies in his complaint, which also fails to state a claim and never names Defendant Orleans at all in any of the allegations. Based on the facts as presented in the complaint, this case is dismissed for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(h)(3).

CONCLUSION

Plaintiff has failed to establish that the Court has subject matter jurisdiction over his claims.

Accordingly,

IT IS ORDERED that Defendant Johnson's Motion for Dismissal and Judgment on the Pleadings [24] is **GRANTED**, and Defendant Orlans' Motion to Dismiss [14] is **DENIED AS MOOT**.

SO ORDERED.

Dated: October 15, 2015

s/Arthur J. Tarnow
Arthur J. Tarnow
Senior United States District Judge